IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3789 OF 2004

IN

CHAMBER SUMMONS NO.1566 OF 2002

IN

EXECUTION APPLICATION NO.543 OF 2002

Rallis India Ltd. ... Applicants

v/s

HMP Engineers Ltd. and ors. ... Respondents

Mr Bonny Patel i/b M/s Crawford Bayley and Co. for Applicants.

Ms S. Khot for Respondents.

CORAM : D.K.DESHMUKH J.

DATE : 17TH MARCH 2005

P.C.: -

1. This is a notice of motion taken out by the decree holder for restoration of its chamber summons No.1566 of 2002 which was dismissed for default. Perusal of that chamber summons shows that the decree holder was merely claiming order of injunction against the judgment debtors. In my opinion, dismissal for default of this chamber summons does not prejudicially affect the right of the decree holder because the decree holder in execution proceedings can ask for higher relief viz. attachment of the property of the judgment debtor for recovery of the decretal amount. As the dismissal for default of the chamber summons does not prejudicially affect the right of the applicants, no useful purpose will be served by restoring the chambers summons. Notice of motion is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.